

REMARKS

Applicant has carefully studied the Office Action of February 12, 2004 and offers the following remarks to accompany the above amendments.

Initially, Applicant amends claims 1 and 44 to recite that the module being claimed is the telephony module. This amendment clarifies any potential ambiguity caused by the recitation of a telephony module and a redundant module in the preamble. No new matter is added and the scope of the claims has not changed. The lack of a change in scope is confirmed by a casual inspection of the dependent claims, which all recite the telephony module. Rather than risk confusion, Applicant makes the term explicit.

The present invention is a system that allows redundancy for telephony devices. Specifically, the system works on telephony devices in an Internet Protocol (IP) network. To this end, a telephony device is created as a node with at least two modules therein. Each module is capable of serving as the telephony device. At any given time, one module is active and serving as the telephony device and the second module is inactive. To help address communications to the modules, the node collectively has four IP addresses. The IP addresses are: 1) a static address for the first module; 2) a static address for the second module; 3) an active address; and 4) an inactive address. The static addresses do not change, but the active and inactive addresses are swapped between modules depending on which module is active and which module is inactive. For example, module1 has static address IP1 and module2 has static address IP2. The active address is IP3 and the inactive address is IP4. When module1 is active, it responds to messages sent to IP1 and IP3. Likewise, while module1 is active, module2 is inactive and responds to messages sent to IP2 and IP4. When, however, module1 becomes inactive, module1 then responds to messages sent to IP1 and IP4 and module2, which is now active, responds to messages sent to IP2 and IP3.

Claims 1-4, 6, 7, 9, 12, 14-21, 25-28, 30, 31, 33, 36-41, 44-47, 49, 50, and 52 were rejected under 35 U.S.C. § 102(e) as being anticipated by Miriyala. Applicant respectfully traverses. For the Patent Office to establish anticipation, the Patent Office must show where in the reference each and every claim element is shown. Further, the elements of the reference must be arranged as claimed. MPEP § 2131. This is a strict standard which has not been met in this case.

The Patent Office groups the analysis of independent claims 1, 18, 25, 38, and 44 and opines that Group 1 of Miriyala is the telephony node recited in the claims. The Patent Office goes on to identify Miriyala's element 306 as the first module (presumably the telephony module) and element 308 as the second module (presumably the redundant module). The Patent Office's analysis fails at this point. Specifically, the Patent Office identifies elements 306, 308, and 310 as the recited network interface. The claim recites that the network interface is part of the telephony module (or in some claims, part of the first module). Thus, under the Patent Office's interpretation of the module, the network interface must be within element 306 and cannot be element 308 (which is first, the redundant module according to the Patent Office and second, clearly not within element 306) or element 310 (which is clearly not within element 306). To this extent, the Patent Office's construction of the reference's elements are not arranged as claimed, and the claims are not anticipated.

The Patent Office compounds its error by identifying Miriyala's element 302 (ATMARP server) as the control system. Applicant initially notes that this is not within Group 1 (identified by the Patent Office as the node) much less within element 306 (identified by the Patent Office as the telephony module). Since element 302 is not within element 306, the elements of the reference are not arranged as claimed and the reference does not anticipate the claims.

The Patent Office still further compounds its error in its analysis of the functions of the control system. Specifically, if the Patent Office is correct that Miriyala's element 302 is the control system, then element 302 must have an active and an inactive state. Clearly, element 302, which is an address server, does not have such active and inactive states. The Patent Office implicitly admits this because the Patent Office does not analyze how element 302 has an active and inactive state. Instead, the Patent Office points to col. 7, lines 54-59, which states "[in] the event that the highest priority ARP Client cannot function properly or is unavailable to service the IP address, the ARP Client corresponding to the next highest priority will service the IP address." The ARP Clients are elements 306, 308, and 310 (see, col. 7, line 21). ARP Clients 306, 308, and 310 are clearly not within element 302 (identified by the Patent Office as the control system). That is, regardless of whether elements 306, 308, 310 change states, element 302 does not change states, and since the Patent Office has identified element 302 as the control system, the reference is not arranged as claimed. If the Patent Office modifies its position to indicate that element 306 changes state, then the Patent Office has not shown where the control

system is. In either event, the reference does not show all the claim elements and the claims are not anticipated.

The Patent Office still further compounds its error in its analysis of the third function of the control system (i.e., "communicate via the network interface using a second IP address when operating in the inactive mode"). The Patent Office opines that this element is shown at col. 8, lines 9-12, which states "[ARP client 306] may possess other IP addresses (not illustrated) that it uses in other roles" and col. 9, lines 16-20, which states "[individual] ATMARP Clients may be configured with standby or shared IP addresses in the same manner that they are configured with any IP address." Since the Patent Office has indicated that element 302 is the control system, and since the claims recite that the control system communicates via the second IP address, and these passages talk about the ARP Clients, not element 302, the reference is not arranged as claimed.

If the Patent Office recants its earlier statement that element 302 is the control system and opines that element 306 implicitly has a control system, then the Patent Office still has not shown how such an implicit control system communicates using a second IP address when in the inactive mode as recited in the claims. Specifically, col. 8, lines 9-12 indicates that element 306 may have other IP addresses that it uses in other roles. However, an examination of col. 8, lines 4-19 clearly indicates that any secondary IP addresses associated with element 306 are not related to its inactive status. Specifically, the passage indicates that element 306 may be an active device for Group 1 and Group 2 and thus have two active states. Nothing in the reference indicates that element 306 has an IP address when element 306 is in an inactive state. To this extent, even if the Patent Office corrects its misapplication of element 302, the reference still does not show all the claim elements arranged as claimed. Since the elements of the reference are not arranged as claimed, the reference cannot anticipate the claims.

While the claims differ slightly in the precise language, each of the independent claims 1, 18, 25, 38, and 44 have language substantially similar to that discussed above and thus the independent claims are not anticipated. Dependent claims 2-4, 6, 7, 9, 12, 14-17, 19-21, 26-28, 30, 31, 33, 36, 37, 39-41, 45-47, 49, 50, and 52 are patentable at least for the same reasons that the independent claims are patentable.

Claims 2, 26, and 45 deserve special mention. Claims 2, 26, and 45 recite a unit IP address for communications based on said module regardless of being active or inactive. This

effectively recites that the telephony module is selectively associated with three addresses, at least two of which must be IP addresses. In the language of the example above, the addresses are: IP1, IP3 and IP4. The Patent Office opines that this element is shown at col. 7, lines 54-59. This passage talks about a lower priority ARP Client servicing an IP address if the highest priority ARP Client is not available. Nowhere in the passage is there a suggestion of a third address associated with the telephony module. Rather the passage merely indicates that other ARP Clients may service the original, single IP address. To this extent, the reference does not teach the claim element and the claim is not anticipated.

Claims 3, 4, 20, 27, 28, 40, 46, and 47 also deserve special mention. The claims recite a hardware address and that the control system is adapted to provide information to associate the hardware address with the first IP address. The Patent Office points to col. 3, lines 10-14 and Figures 1B. Applicant reminds the Patent Office, that for anticipation, the elements of the reference must be arranged as claimed. MPEP § 2131. Col. 3, lines 10-14 describes the system of Figure 1A. Collectively, Figures 1A and 1B are prior art systems separate from the systems of Figure 3 (which is the source of most of the text cited against the independent claims). Since the elements of Figures 1A and 1B are not necessarily part of the system of Figure 3, the elements of Figures 1A and 1B are not arranged relative to the elements of Figure 3 and the elements are not arranged as claimed. To this extent, the reference does not anticipate the claims.

Claims 5, 8, 29, 32, 48, and 51 were rejected under 35 U.S.C. § 103 as being unpatentable over Miriyala in view of Bender. Applicant respectfully traverses. For the Patent Office to establish obviousness over a combination of references, the Patent Office must still show where in the combination of references each and every element is located. MPEP § 2143.03.

As explained above, Miriyala does not teach or suggest the telephony module with the control system that performs the recited functions. Nothing in Bender cures this deficiency. The Patent Office has pointed to nothing in Bender that teaches this element. Applicant has studied the reference and finds no such teaching or suggestion. Since the references individually do not teach or suggest a claim element, the combination of references cannot teach or suggest the claim element. Since the combination of references does not teach or suggest the claim element, the claims are non-obvious over the rejection of record.

Claims 10, 11, 22, 34, 35, 53, and 54 were rejected under 35 U.S.C. § 103 as being unpatentable over Miriyala in view of Lelaure. Applicant respectfully traverses. The standard for obviousness is set forth above.

As explained above, Miriyala does not teach or suggest the telephony module with the control system that performs the recited functions. Nothing in Lelaure cures this deficiency. The Patent Office has pointed to nothing in Bender that teaches this element. Applicant has studied the reference and finds no such teaching or suggestion. Since the references individually do not teach or suggest a claim element, the combination of references cannot teach or suggest the claim element. Since the combination of references does not teach or suggest the claim element, the claims are non-obvious over the rejection of record.

Claim 13 was rejected under 35 U.S.C. § 103 as being unpatentable over Miriyala in view of Onweller. Applicant respectfully traverses. The standard for obviousness is set forth above.

As explained above, Miriyala does not teach or suggest the telephony module with the control system that performs the recited functions. Nothing in Onweller cures this deficiency. The Patent Office has pointed to nothing in Bender that teaches this element. Applicant has studied the reference and finds no such teaching or suggestion. Since the references individually do not teach or suggest a claim element, the combination of references cannot teach or suggest the claim element. Since the combination of references does not teach or suggest the claim element, the claims are non-obvious over the rejection of record.

Applicant appreciates the indication of allowable subject matter, but in light of the failure to anticipate or render the claimed invention obvious over the references of record, Applicant does not choose to amend the claims further at this time.

Applicant requests reconsideration of the rejection in light of the amendments and remarks presented herein. The Patent Office has not shown where in the reference a single telephony module associates with two IP addresses depending on active or inactive states. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:



Taylor M. Davenport

Registration No. 42,466

P.O. Box 1287

Cary, NC 27512

Telephone: (919) 654-4520

Date: May 12, 2004

Attorney Docket: 7000-028

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